

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KIRSTYN PAIGE BASHAW,)	CIVIL ACTION NO.
)	
Plaintiff,)	JUDGE
)	
v.)	
)	
MAJESTIC CARE OF WHITEHALL,)	
LLC,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Majestic Care of Whitehall, LLC (“Majestic Care”), pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, gives notice of the removal of this action to the United States District Court for the Southern District of Ohio, Eastern Division, from the Court of Common Pleas for Franklin County, Ohio. As grounds for this removal, Majestic Care states as follows:

I. REMOVAL IS TIMELY

1. Plaintiff Kirstyn Paige Bashaw (“Plaintiff”) commenced an action in the Court of Common Pleas for Franklin County, Ohio, case number 22cv-00-3645 against Majestic Care, filed on May 27, 2022. Plaintiff’s Complaint is attached hereto as **Exhibit A**.

2. Majestic Care filed an Answer, a copy of which is attached hereto as **Exhibit B**, and a Rule 12(B)(6) Motion to Dismiss Count II of Plaintiff’s Complaint. The Franklin County Court of Common Pleas has not ruled on Defendant’s Rule 12(B)(6) Motion. Copies of the Rule 12(B)(6) briefing is attached hereto as **Exhibits C, D, and E**.

3. On January 12, 2023, Plaintiff filed an Amended Complaint in case number 22cv-00-3645. A true and correct copy of Plaintiff’s Amended Complaint is attached here as

Exhibit F. The Amended Complaint asserts two additional claims (Counts III and VI) against Majestic Care.

4. A copy of the Amended Complaint was served upon counsel for Majestic Care on January 17, 2023 via the Franklin County, Ohio Court of Common Pleas electronic filing system.

5. This Notice of Removal is being filed within thirty days of Majestic Care's receipt of the Amended Complaint, and is therefore timely under 28 U.S.C. §1446, which provides, "[t]he notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of the initial pleading setting forth the claim for relief upon which such action or proceeding is based... ." 28 U.S.C. §1446(b)(1).

II. FEDERAL QUESTION JURISDICTION EXISTS

6. Removal of this case is proper under 28 U.S.C. §1441(a), which provides, in pertinent part, that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. §1441(a).

7. Title 28 U.S.C. §1331 provides that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. §1331.

8. This case is removable under 28 U.S.C. §1441 as the United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331. Count III of Plaintiff's Amended Complaint asserts a claim for Retaliation on Complaint of Sexual

Harassment and Race Discrimination pursuant to Title VII of the Civil Rights Act, 42 U.S.C. §2000e, et seq.

9. 28 U.S.C. §1367 provides in relevant part that “...in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution... .” 28 U.S.C. §1367. Plaintiff’s remaining claims, Counts I, II and VI, all arise out of the same operative facts as Count III. Each claim relates to Majestic Care’s decision to terminate Plaintiff’s employment. Thus, this Court has supplemental jurisdiction over Plaintiff’s remaining claims, Counts I, II and VI.

III. MAJESTIC CARE HAS SATISFIED ALL OTHER REQUIREMENTS FOR REMOVAL

10. This case is not any of the type of nonremovable civil actions outlined by 28 U.S.C. §1445.

11. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a) and 1446(a) because the U.S. District Court for the Southern District of Ohio, Eastern Division, is the federal judicial district embracing the Court of Common Pleas for Franklin County, Ohio, where Plaintiff originally filed the state court action.

12. No previous Notice of Removal has been filed with this Court.

13. Consistent with 28 U.S.C. §1446(d), promptly after the filing of this Notice Removal, Majestic Care will give written notice to Plaintiff and will file a Notice with the Clerk for the Court of Common Pleas for Franklin County, Ohio. A copy of the notice to the Franklin County Clerk and Plaintiff of the Notice of Removal is attached as **Exhibit G**.

14. A civil cover sheet is attached hereto as **Exhibit H**.

WHEREFORE, Majestic Care respectfully requests that the above captioned action now pending in the Franklin County, Ohio Court of Common Pleas be removed to the United States District Court for the Southern District of Ohio, and that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Dated: January 20, 2023

Respectfully submitted,

/s/ Joseph J. Brennan

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*Attorneys for Defendant Majestic Care of
Whitehall, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2023, a copy of the foregoing *Notice of Removal* was filed through the Court's electronic filing system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A copy of this *Notice of Removal* will also be sent to:

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